

### **CORRECTIONS TO THE DRAWINGS**

The Examiner objected to the drawings under 37 CFR 1.83(a) as not showing every feature of the invention specified in the claims. The Claimed damper is required to be shown or canceled from the claims. The Examiner objected to Figures 8A and 8B in the Amendment filed December 18, 2006 under 35 U.S.C. 132(a) because of introduction of new matter in the disclosure. In response to the Examiner's objection to the drawings, the damper 102 has been removed from Figure 8A. The damper 102 has been revised in Figure 8B to remove objections under 35 U.S.C. 132(a) and maintain compliance with 37 CFR 1.83(a). The damper 102 is supported by the text describing Figures 8A, 8B, and 8C. No new matter has been added. A replacement drawing sheet, including the corrected Figures 8a and 8B and showing Figures 8A, 8B, 8C, and 8D has been included in Appendix A. In view of the drawing corrections, the Applicants respectfully request withdrawal of the objections under 35 U.S.C. 132(a) and 37 CFR 1.83(a).

## **REMARKS**

The February 28, 2007 Office Action was based on claims 1-22, 24-30, 32, and 33. This amendment cancels claims 1-18, and 32. Thus, after entry of this amendment, claims 19-22, 24-30, and 33 are pending and presented for further consideration.

In the February 28, 2007 Office Action, the Examiner objected to the specification as failing to provide proper antecedent basis for the claimed subject matter in accordance with 37CFR 1.75(d)(1) and MPEP § 608.01(o).

The Examiner allowed Claims 19-22, 24-30, and 33.

The Examiner rejected Claims 1-18 and 32. The Examiner rejected Claims 1-8, 11-18, and 32 under 35 U.S.C. § 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicants regard as the invention. The Examiner objected to Figures 8A and 8B in the Amendment filed December 18, 2006 under 35 U.S.C. 132(a) because of introduction of new matter in the disclosure.

The Examiner rejected Claims 9 and 10 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Number 5,099,827 ("the Melzer et al. '827 patent") in view of U.S. Patent No. 3,363,628 ("the Wood '628 patent"). In light of the following arguments, reconsideration of the pending claims, as amended, is respectfully requested.

### **OBJECTION TO THE SPECIFICATION UNDER 37 CFR 1.75(d)(1) and MPEP § 608.01(o)**

The Examiner objected to the specification under 37 CFR 1.75(d)(1) and MPEP § 608.01(o) as failing to provide proper antecedent basis for the claimed subject matter. Specifically, the Examiner alleges that the specification does not provide antecedent basis for a clip having jaws rotatably disposed about a (as in one) hinge, wherein the clip opens and closes with force parallelism and where the parallelism is maintained by a parallelogram hinge, or by a linear bearing. None of the disclosed embodiments have these maintaining means in conjunction with jaws rotatable about one hinge. The Examiner alleges that all the disclosed embodiments with these maintaining means have jaws, where each jaw is rotatable about a different hinge.

Support for a hinge providing force parallelism can be found on page 10, lines 3-13 and lines 29 through 31 and in Figures 1A, 1B, and 1C. In this part of the specification, the clip 10 utilizes a parallelogram hinge design to facilitate parallelism in the jaws 12 in the open, closed, and partially open configurations. The parallelogram hinge comprises a main hinge 18, a plurality of main struts 20, an optional secondary hinge 28, a plurality of optional secondary struts, a plurality of main pivot points 32, an optional hinge bracket 38, and a plurality of optional secondary pivot points 40. The Applicants respectfully submit that the parallelogram hinge is a single hinge entity, although it comprises a plurality of hinges, and applied it as such within the specification. Further support for the force parallelism can be found in Figures 10A and 10B along with the description in the specification (page 22, lines 7 through 33 and page 23, lines 1 through 7. In this embodiment, a single hinge 18 controls the jaws 12 but the pads 16 are of uneven thickness or hardness which provides approximately even force distribution on the tissue but with less complexity than the other clip 10 embodiments. In view of this clarification, the Applicants respectfully request withdrawal of the objection to the specification under 37 CFR 1.75(d)(1) and MPEP § 608.01(o).

### **REJECTION OF CLAIMS 1-18 and 32**

#### **Claims 1-18 and 32**

Please cancel Claims 1-18 and 32 without prejudice in order to expedite prosecution of this application.

### **AUTHORIZATION OF ASSIGNEE**

Jay A. Lenker, CEO, an officer of Damage Control Technologies, Inc, which is the assignee of U.S. Patent Application No. 10/663,038 authorizes an inventor, Jay A. Lenker, to respond to the outstanding Office Action.

**CONCLUSION**

Although amendments and cancellations have been made, no acquiescence or estoppel is or should be implied thereby. Rather, the amendments and cancellations are made only to expedite prosecution of the present application, and without prejudice to presentation or assertion, in the future, of claims on the subject matter affected thereby. Furthermore, any arguments in support of patentability and based on a portion of a claim should not be taken as founding patentability solely on the portion in question; rather, it is the combination of features or acts recited in a claim which distinguishes it over the prior art.

Applicants have endeavored to address all of the Examiner's concerns as expressed in the outstanding Office Action. In view of the foregoing, the present application is believed to be in condition for allowance, and such allowance is respectfully requested.

If further issues remain to be resolved, the Examiner is cordially invited to contact the undersigned such that any remaining issues may be promptly resolved.

Respectfully submitted,

Dated: 27 April 2007

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Application No. 10/663,038  
Filed: September 15, 2003

**Appendix A**  
**Corrected Drawings**